

October 1, 2008

30959 Frog Creek Road
Vermillion, SD 57069

Kyrik Rombough, Engineering Director
Division of Environmental Service
SD Department of Environment and Natural Resources
523 E. Capitol
Pierre, SD 57501

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AIR QUALITY
PROGRAM

Dear Mr. Rombough and DENR staff:

I am dismayed that South Dakota's Department of Environment and Natural Resources has approved the air pollution permit submitted by the proposed Hyperion refinery. Without requiring the Environmental Impact Statement that a project of this magnitude certainly warrants, and without requiring Hyperion to employ the highest industry standards to protect our air, you have accepted the company's claim that they will "prevent significant deterioration" of our air quality. I only wonder what level of deterioration the agency charged with protecting South Dakota's environment, and specifically the air quality of my corner of the state, would consider "significant." DENR has authorized the planned giant refinery to degrade our air to an unacceptable degree.

As you know, only six of the dozens of toxins the refinery would emit are even addressed in the air permit. Among the pollutants that state and federal law do not regulate is carbon dioxide, though by Hyperion's own figures, their use of tar sands crude would more than double South Dakota's output of this global warming gas. Hyperion claims that their coke-burning power plant will be carbon-sequestration-ready, but we both know that they have no real plans to contain these destructive emissions.

Since Hyperion has never built a refinery and has no track record, the DENR has relied upon Hyperion's computer modeling of how extensively they would pollute our region's air. Yet, according to the would-be refinery's own low-ball projections, each year they would pump more than 10 million pounds of carbon monoxide, fine particulate matter, sulfur dioxide, nitrogen oxides, volatile organic compounds, sulfuric acid and hydrogen sulfide into our air. According to the US Environmental Protection Agency, these various pollutants and toxins aggravate heart conditions, trigger strokes, and are known to produce or worsen asthma, bronchitis and other lung diseases. Cancer-causing benzene is not even regulated by the air pollution permit you have issued.

Appalling as these pollution levels are, I am sure you are aware that Hyperion's estimates are based on a best-case scenario—not considering the bursts of emissions produced by start-ups, shut-downs, flares and other non-routine events. You must also be aware that independent measurements of emissions at existing refineries far exceed the self-reported levels routinely reported by these entities, and that your permit does not require Hyperion to employ industry standard tools to detect and measure emissions.

I am sure you are aware that Hyperion's claims that their refinery will be "green" are completely bogus, that there is no such thing as an "environmentally-friendly" refinery that processes 400,000 barrels of sour crude per day. You are aware that the Environmental

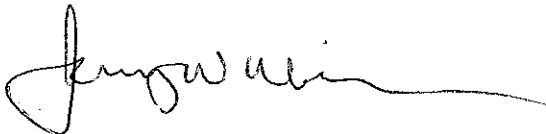
Protection Agency's term "Best Available Technology" is a slippery concept, which will allow Hyperion to scrimp on control technology and emit more pollutants into the air of our "Clean Air Attainment" state than would be permitted in several other states. Rather than the "cleanest refinery in the country" that both Hyperion and Gov. Rounds promise, the Union County facility, if built according to the permit you have approved, will actually pollute more than several comparable modern refineries around the nation and the world.

So what do I want from the state agency charged with "environmental service"? I expect you to require a full and thorough Environmental Impact Statement, as you are authorized by federal law to do. You have approved a permit to refine tar sands crude, but Hyperion has yet to tell us, or you, which of the three differing sources of Canadian crude they will use, each of which would deteriorate our air in differing ways. Neither has Hyperion told us where their rail lines and pipelines will run, or exactly what kinds of fuel will power this plant. These and other basic and obvious questions would be answered by an EIS, and I expect you to defer implementation of this air permit until all the pertinent questions are answered—not in vague generalizations, but in writing and in engineering plans.

I also expect you to demand of Hyperion that at every step of the way, they employ the truly "best available technology." Among other things, that means requiring carbon sequestration, and the use of detection technologies such as DIAL (Differential Absorption Light Detection and Ranging), SOF (Solar Occultation Flux), TCT (Time Correlation Tracer) and IRC (Infrared Imaging Camera) to measure fugitive emissions—leaks that would otherwise go undetected and unreported.

The bottom line is that you are supposed to represent the long-term interests of the people of South Dakota, not those of Texas tycoons or Gov. Rounds. It appears you have acted in haste, under political pressure, and have not done your job well. I expect more, and will work with other citizens to demand that the proposed Hyperion refinery receive all the scrutiny, oversight and controls that such a facility requires.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Jerry Wilson", with a long, sweeping horizontal line extending to the right.

Jerry Wilson